

# Weekly Summary of Cases National Labor Relations Board Week of August 2-6, 2010, W-3272 — REVISED

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#### **Summarized Board Decisions**

*Service Employees International Union, Local 715* (32-CB-6237 et al.; 355 NLRB No. 65) San Jose, CA, August 6, 2010. [HTML] [PDF]

The Board found that SEIU Local 715 violated the Act by refusing to provide Stanford Hospital with information it requested concerning the officers, employees, and assets of Local 715 and SEIU Local 521, as well as information concerning which law firm or firms served as Local 715's legal representative. The Board found that Stanford had been given conflicting information regarding whether Local 715, with which it had a collective-bargaining agreement, continued to exist and which law firm served as its legal representative. Therefore, the Board found that Stanford was entitled to receive the information it had requested, as the information would be of use to Stanford in carrying out its duties and responsibilities under the Act. However, the Board found that Local 715 did not violate the Act by refusing to provide Stanford with information concerning whether a particular law firm's representation of Local 715 was based on a service agreement that Local 715 had with another union. The Board found that whether Local 715 chose such an arrangement was not relevant to its collective-bargaining relationship with Stanford or to the issue of whether Local 715 remained in existence. Member Schaumber, dissenting, would have found this violation also.

Administrative Law Judge John J. McCarrick issued his decision August 4, 2010. Charges were filed by Stanford Hospital and Clinics/Lucile Packard Children's Hospital. Chairman Liebman and Members Schaumber and Pearce participated.

## Decisions in cases involving prior rulings by two-member Board

The following cases involve prior rulings by the two-member Board, whose authority to act was rejected by the U.S. Supreme Court decision in New Process Steel, LP (June 17, 2010). The new decisions summarized here were reached by a three-member panel of the Board or by the full Board.

*Chrysler, LLC* (7-CA-51553; 355 NLRB No. 61) Auburn Hills, MI, August 5, 2010. [HTML] [PDF]

The Board found that the employer violated the Act by failing to comply with the Union's request for information concerning the outsourcing of bargaining unit work. However, the Board

also found that the employer was justified in failing to comply with the Union's request for information concerning the Respondent's ENVI hybrid vehicle program, because there was no evidence that the program involved bargaining unit work or that it implicated unit employees' terms or conditions of employment.

Administrative Law Judge Ira Sandron issued his decision May 1, 2009. Charges were filed by Local 412, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW). Chairman Liebman, Member Schaumber, and Member Pearce participated.

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ADF, Inc., and its alter ego ADLA, LLC (1-CA-45068; 355 NLRB No. 62) Warwick, RI, August 5, 2010. [HTML] [PDF]

The Board found that the employers (ADF, Inc. and ADLA, LLC) are alter egos and that they violated Section 8(a)(5) and (1) of the Act by repudiating the collective-bargaining agreement between ADF and the Union and by withdrawing recognition from the Union.

Administrative Law Judge Arthur J. Amchan issued his decision November 4, 2009. The charge was filed by International Brotherhood of Teamsters, Local Union No. 251. Chairman Liebman, Member Schaumber, and Member Pearce participated.

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**Regal Health and Rehab Center, Inc.** (13-CA-44481 et al.; 355 NLRB No. 63) Oak Lawn, IL, August 5, 2010. [HTML] [PDF]

The Board adopted the findings of the Administrative Law Judge that the employer unlawfully discharged three nurses in retaliation for their union activity and threatened other employees with job loss and unspecified reprisals for engaging in union activities, promised employees a reward for surveillance of other employees, and interrogated employees concerning their union sympathies and activities. The Board also found that the employer should be ordered to bargain with the Union.

Administrative Law Judge Margaret B. Brakebusch issued her decision October. 6, 2008. Charges were filed by Service Employees International Union Healthcare, Local 4. Chairman Liebman and Members Schaumber and Pearce participated.

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*SPE Utility Contractors, LLC* (7-CA-50767; 355 NLRB No. 60) Port Huron, MI, August 5, 2010. [HTML] [PDF]

The Board adopted the Administrative Law Judge's findings that the Respondent violated the Act by discharging an employee in order to limit its potential back pay to her in another unfair labor practice proceeding and because the employee testified in that proceedings. The Board also adopted the judge's recommended expunction remedy, including that the employee's discharge not be used in any way against her.

Administrative Law Judge Ira Sandron issued his decision December 17, 2008. Charge was filed by an Individual. Chairman Liebman and Members Schaumber and Pearce participated.

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Leiferman Enterprises, LLC d/b/a Harmon Auto Glass and its successor Auto Glass Repair and Windshield Replacement Service, Inc. (18-CA-18134-S; 355 NLRB No. 66) Minneapolis, MN, August 6, 2010. [HTML] [PDF]

The Board found that the employer is derivatively liable under *Golden State Bottling Co. v. NLRB*, 414 U.S. 168 (1973), for the unfair labor practices of Harmon Auto Glass reported at 352 NLRB 152 (2008). The Board rejected the employer's argument that its liability was extinguished by its purchase of Harmon Auto Glass's assets "free and clear of any liens and encumbrances" at a judicial sale arising out of an involuntary liquidation proceeding in State court.

Administrative Law Judge Robert A. Giannasi issued his supplemental decision June 26, 2009. Charges were filed by the International Union of Painters and Allied Trades – District Council 82. Chairman Liebman, Member Schaumber, and Member Pearce participated.

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*McCarthy Construction Company* (7-CA-51474, 51647; 355 NLRB No. 67), Walled Lake, MI, August 6, 2010. [HTML] [PDF]

The Board found that the employer unlawfully 1) failed to respond to the Union's June 17, 2008 information request in a timely manner, 2) failed to meet and bargain with the Union at reasonable times, and 3) failed to respond to the Union's request for information about a suspected alter ego. The Board also extended the certification period by nine months.

Administrative Law Judge Arthur Amchan issued his decision May 27, 2009. Charges were filed by Cement Masons Local 1, International Union of Bricklayers and Allied Craftworkers (BAC), AFL-CIO. Chairman Liebman and Members Schaumber and Pearce participated.

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*J. S. Carambola, LLP, d/b/a Carambola Beach Resort* (24-CA-10951, 24-RC-8577, 355 NLRB No. 69) Davis Bay, St. Croix, VI, August 6, 2010. [HTML] [PDF]

The Board adopted the hearing officer's findings and recommendations and certified the union as the exclusive bargaining representative of the employees. The Respondent had refused to bargain for the purpose of testing the validity of the certification in the U.S. Courts of Appeals. However, because the Respondent's legal position may have changed or other events may have occurred since the litigation began, the Board issued a Notice to Show Cause granting the General Counsel leave to amend the complaint and the Respondent the right to answer the amended complaint and to show cause why the Board should not grant the General Counsel's motion for summary judgment.

Charges were filed by Our Virgin Islands Labor Union. Chairman Liebman and Members Schaumber and Hayes participated.

#### **Unpublished Board Decisions in Representation Cases**

City of Fenton (7-WH-219) Fenton, MI, August 2, 2010. On March 29, 2010, Fenton Police Officers/Dispatchers Association filed with the Regional Director a request for certification of representative as bona fide under Section 7(b) of the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. Section 207(b). No party having shown cause why the requested certification should not be issued, the Board certified that Fenton Police Officers/Dispatchers Association is a bona fide representative. Petitioner – Fenton Police Officers/Dispatchers Association.

*Mars Home for Youth* (6-RC-12692) August 4, 2010. Order denying Employer's request for review of the Regional Director's decision and direction of election. Member Schaumber, dissenting. Petitioner – Pennsylvania Social Services Union Local 668 a/w Service Employees International Union a/w CTW. Chairman Liebman and Members Schaumber and Pearce participated.

*Land-O-Sun, LLC* (5-UC-405) August 5, 2010. Order affirming administrative dismissal of petition. Petitioner – Bakery, Confectionery, Tobacco Workers and Grain Millers International Union Local 358. Chairman Liebman and Members Becker and Pearce participated.

*Good Samaritan Hospital* (31-RD-1555) Los Angeles, CA. The Board reviewed the record in light of exceptions and briefs, and adopted the judge's findings and recommendations, as supplemented and amended on remand, and found that the election held April 29-30, 2008 should be set aside and a new election held. Chairman Liebman concurring. Petitioner – an Individual. Chairman Liebman and Members Schaumber and Pearce participated.

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### **Decisions of Administrative Law Judges**

Dodge of Naperville, Inc. and Burke Automotive Group, Inc. d/b/a Naperville Jeep/Dodge, a single employer (13-CA-45399; JD-40-10) Naperville, IL. Charge filed by Automobile Mechanics Local No. 701, International Association of Machinists and Aerospace Workers, AFL-CIO. Administrative Law Judge Paul Bogas issued his decision August 2, 2010. [HTML] [PDF]

**Southside Hospital** (29-CA-29806; JD(NY)-31-10) Bay Shore, NY. Charge filed by New York State Nurses Association. Administrative Law Judge Steven Davis issued his decision August 3, 2010. [HTML] [PDF]

*Praxair Distribution, Inc.* (28-CA-22806, 22809; JD(SF)-33-10) Phoenix, AZ. Charges filed by Individuals. Administrative Law Judge Gregory Z. Meyerson issued his decision August 4, 2010. [HTML] [PDF]

*Costco Wholesale Corp.* (5-CA-35393; JD-42-10) Baltimore, MD. Charge filed by Teamsters Local 311, International Brotherhood of Teamsters, AFL-CIO. Administrative Law Judge John T. Clark issued his decision August 4, 2010. [HTML] [PDF]

*Prime Healthcare Services-Garden Grove, LLC d/b/a Garden Grove Hospital & Medical Center* (21-CA-39031; JD(SF)-31-10) Los Angeles, CA. Charge filed by Service Employees

International Union, United Healthcare Workers-West. Administrative Law Judge Jay R. Pollack issued his decision August 4, 2010. [HTML] [PDF]

*DirecTV, Inc., d/b/a DirecTV Home Services* (20-CA-34858; JD(SF)-32-10) Sacramento, CA. Charge filed by International Brotherhood of Electrical Workers, Local 340, AFL-CIO. Administrative Law Judge Mary Miller Cracraft issued her decision August 5, 2010. [HTML] [PDF]

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